

REQUEST FOR QUALIFICATIONS

ENGINEERING TECHNICAL ASSISTANCE

FOR THE

INTERNATIONAL ENERGY TECHNOLOGY

EXPORT PROGRAM



RFQ 500-00-508
State of California
California Energy Commission
March 2001

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- B Project Listing Form

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- 2.2 Prime Bidder s Certification of Disabled Veteran-Owned Business Participation
- 2.3 List of Disabled Veteran Owned Business Participation
- 2.4 Documentation of Good Faith Efforts
- 3 Contractor Certification Clauses
- 4 Customer References
- 5 Standard Agreement

I. Introduction

Background Summary

Pursuant to Public Resources Code Sections 25695 to 25698, the Energy Commission conducts an export assistance program to assist California companies through one of the country's two state-mandated energy export programs. Since 1988, the Energy Commission's program has helped to produce over \$400 million in energy export sales from California, with a better than 37-to-1 return for every government dollar invested in export-stimulating activities.

Over the last nine years the California Energy Commission (Energy Commission) has developed insights into problems faced by California energy technology firms trying to export equipment and services to international markets.

The Energy Commission's Export Program has helped California companies develop industrial cogeneration projects in Thailand, energy efficiency projects in Malaysia, wind energy projects in Greece and Costa Rica; hospital cogeneration plants in Australia and Thailand; geothermal powerplants in the Philippines; village power projects using solar photovoltaics in Kenya and Tanzania. These projects and more have paved the way for business deals that produce jobs, revenue and an increased tax base for California.

What is the Purpose of this RFQ?

The purpose of this Request for Qualifications (RFQ) is to select up to four consultant(s) or teams to provide engineering and technical assistance services to the Energy Technology Export Program to perform preliminary site evaluations and assessments for project development and follow-up activities for the Energy Commission and California energy technology companies.

The Commission is seeking Bidder(s) with experience and background in energy projects that have resulted in either energy savings, energy production or energy use. Bidder(s) should also have experience and background in performing this work in the U.S., California and foreign countries identified in this RFQ.

How Is This RFQ Organized?

This Request for Qualifications (RFQ) is organized into the following sections:

Section I provides a summary and administrative overview of the RFQ Requirements.

Section II provides administrative detail including legal requirements of the RFQ.

Section III explains in detail the format, documents and technical expertise needed to submit a successful proposal.

Section IV explains the program background.

Section V explains the work to be accomplished.

Section VI explains the evaluation process.

I. Introduction, continued

How Much Funding is Available?

There is a maximum total of up to \$120,000 available resulting from this RFQ. Of this amount, \$15,000 is immediately available and the remaining balance, \$105,000, may be available from fiscal years 2001-02 and 2002-03. The contract(s) will be let up to the entire amount of \$120,000. This is an hourly rate plus cost reimbursement contract with a ceiling on the total contract amount. If multiple contracts are awarded, the budgeted amount will be divided equally between each technology area. The Commission reserves the right to increase or decrease the amount of any contract as needed to meet budget or program requirements.

Funding for fiscal years 2001-02 and 2002-03 are subject to the availability and approval of the Governor's 2001-02 and 2002-03 budget. Partial funding (\$120,000) for this agreement is dependent upon the submission and approval of a grant proposal to the Federal Government and to any additional restrictions, limitations, or conditions imposed by the Federal Government, federal law, federal court judgments, and/or federal agency orders which may affect the provisions or terms of this Agreement.

Technology Category	Maximum Anticipated Funding
Cogeneration Power Systems (< 1 MW)	\$ 30,000
Cogeneration Power Systems (> 1 MW)	\$ 30,000
Energy Efficiency	\$ 30,000
Small Power Systems	\$ 30,000
Total	\$ 120,000

Will International Travel Be Required?

Yes, Potential Bidders must be able to travel outside of the United states (U.S.) in the following two geographical regions:

- § Region 1: China, Asia, South East Asia (SEA), India, Pakistan, and Bangladesh
- § Region 2: Mexico, Central and South America, and Caribbean

The successful Bidder(s) will be required to accompany a staff person from the Commission's Export Program to conduct the following technical assessment mission work:

1. participate in meetings with staff and foreign host site owners and/or government representatives to initiate project development discussions;
2. perform a preliminary engineering audit and assessment of the host facility/building site;
3. develop a comprehensive technical assessment mission report that includes a preliminary engineering site assessment and analysis evaluating the host site, technology options for

I. Introduction, continued

potential project development by a California energy technology company, comprehensive daily summary of meetings and discussions, and a complete database (name, company name, address, phone, fax, etc.) identifying all representatives met during the duration of the mission; and

4. ability to perform follow-up activities for the Energy Commission to enhance the technical and engineering aspects of the project assessment and project development work performed during the mission and to advance the business and export interests of California energy technology companies.

What Class of Travel Will be Allowed?

International or domestic air flights will be limited to coach or economy fares. Business class fares are not allowed, however, the potential contractor may upgrade to a higher class of service at their own expense. It is the policy of the State of California to utilize the U.S. Government rates for meals and incidental expenses for travel abroad.

Is This a Retainer Type Contract?

Yes, any contract awarded as a result of this solicitation will be a no-fee "retainer" contract. The selected consultant will be held on retainer and will be assigned work via work authorizations. Work authorizations will be assigned by expertise, project workload, or geographical location. The Commission makes no guarantee that any or all of the funds will be assigned in any given year.

Will Multiple Contracts Be Awarded?

The Energy Commission reserves the right to award multiple contracts based on project workload, expertise or geographic location.

What Specialty Areas Are Necessary?

Up to four (4) individual Bidders will be selected to contract for a total of four (4) contracts. All Bidders are expected to be highly qualified in all of the following areas of energy technology categories:

1. Cogeneration power systems- application involving small power generation or industrial projects of less than one MW;
2. Cogeneration power systems -- application involving small power generation or industrial projects above one MW;
3. Energy efficiency and demand-side management (DSM) - application of technologies involving the use of energy efficient lighting systems, energy efficient HVAC systems, energy efficient building envelope design, direct digital controls or building automation systems; and

I. Introduction, continued

4. Small power generation systems- power generation systems producing electricity for non-grid (remote) and/or grid-connected applications of less than 50 MW.

I. Introduction, continued

How Do I Respond to this RFQ?

Responses to this solicitation will be in the form of a Statement of Qualifications (SOQ) according to the format described in Section III. The SOQ shall document the Bidder's qualifications to perform the tasks described in the Work Statement found in Section V.

What Are The Key Activities And Dates?

Key activities and times for this RFQ are presented below. This is a tentative schedule, please call the Contracts Office to confirm dates.

ACTIVITY	ACTION DATE
RFQ Release	March 16, 2001
Deadline for Written Questions	March 29, 2001
Pre-Bid Conference	March 29, 2001
Distribute Questions/Answers and Addenda (if any) to RFQ	As Necessary
Deadline to Submit SOQ	May 3, 2001
Oral Interviews (Required)	May 15-16, 2001
Notice of Selection	May 18, 2001
Commission Business Meeting	June 27, 2001
Contract Start Date	June 30, 2001
Contraction Termination Date	June 30, 2004

How Can I Obtain Further Information?

A Pre-Bid Conference will be held to answer questions. Please call (916) 654-4392 to confirm the time and date. Bidders are encouraged to attend this informational meeting:

March 29, 2001
California Energy Commission
Hearing Room B, 1st Floor
1516 Ninth Street
Sacramento, CA 95814

Are there Reference Documents?

Bidders responding to this RFQ may want to familiarize themselves with the following:

- § Energy Technology Export Program Brochure
- § Guide to Preparing Feasibility Studies developed by the Commission
- § Copies of past international technical reports prepared by Energy Commission Consultants
- § Copies of past performance specifications prepared by Energy Commission Consultants

I. Introduction, continued

I. Introduction, continued

Copies of the Guidelines, past engineering studies, are on display and available for review until the proposal due date in the Commission's Library located at:

California Energy Commission
1516 Ninth Street, MS-10
Sacramento, CA 95814
(916) 654-4292

Publications referenced above are on display and available for review in the Commission's Library located at:

California Energy Commission
1516 Ninth Street, MS-10
Sacramento, CA 95814
(916) 654-4292

Library hours of operation are:
Monday - Thursday, 9:00 a.m. - 12:00 p.m. and 1:00 p.m. - 4:00 p.m.
Friday, 9:00 a.m. - 12:00 p.m.

Who Do I Contact?

Questions or clarifications about this RFQ should be directed to:

Elizabeth Stone, Contract Officer
California Energy Commission
1516 Ninth Street, MS-18
Sacramento, California 95814
Telephone: (916) 654-4392
RFQ Hotline: (916) 654-4788
FAX: (916) 654-4423

This RFQ is available through the Commission's Web Site at: www.energy.ca.gov/contracts.
Copies may be obtained by writing or calling the number above.

Verbal Communication

Any verbal communication with a Commission employee concerning this RFQ is not binding on the State and shall in no way alter a specification, term, or condition of the RFQ.

What Are My Responsibilities For Submitting A Statement of Qualifications?

Bidders must take the responsibility to:

I. Introduction, continued

1. Carefully read this entire RFQ
2. Ask the appropriate questions in a timely manner
3. Submit all required responses in a complete manner by the required date and time
4. Make sure that all procedures and requirements of the RFQ are followed and appropriately addressed
5. Carefully reread the entire RFQ before submitting a proposal.

II. Background

Description Of Energy Technology Program

The Energy Commission conducts an export assistance program pursuant to Public Resources Code Sections 25695 to 25698. The Energy Commission's Energy Technology Export Program (Export Program) assists California companies through one of the country's two state-mandated energy export programs. Since 1988, the Energy Commission's program has helped to produce over \$400 million in energy export sales from California, with a better than 37-to-one return for every government dollar invested in export-stimulating activities.

Over the last nine years the California Energy Commission (Energy Commission) has developed insights into problems faced by California energy technology firms trying to export equipment and services to international markets. California energy companies represent a large share of the world's manufacturing capability and expertise to develop energy projects.

California's collective industry serves 25-90 percent of the U.S. market for each of the energy technologies identified: geothermal, wind, hydropower, biomass, solar thermal, cogeneration, photovoltaics, energy conservation, oil and gas, coal and transportation technologies. These companies have identified international markets as good opportunities to promote the use of their energy technologies, products, and services.

Annual Survey

Over 700 small-to-medium size California energy companies have expressed interest in expanding sales into the international marketplace based on the Energy Commission's annual industry survey. California firms are in a unique position to benefit from energy growth trends abroad because of their extensive experience and capabilities. However, many of these firms lack the expertise and access to capital to enter the international marketplace.

The problems California firms encounter are associated with identifying international energy project opportunities. Common problems faced by California firms include the limited availability of accurate energy data, country specific economic and business information, and cultural experience.

It is also difficult to identify key decision makers in a foreign energy ministry or national utility who can provide valuable information on planned energy projects and bidding processes. In some instances, a sponsoring organization such as the World Bank may impose their bidding process, conditions, and timeframes for decisions on behalf of the host country, which complicates understanding the picture of players and events.

Initial Market Development Financial Burdens

II. Background, continued

California firms must also carry the financial burden of funding initial market development work to determine the cost-competitiveness of their technologies for the application, technology demonstration projects, and establishing relationships and a presence in a foreign country/region. For any export venture to be successful, a visit to the potential project site is necessary to get first-hand knowledge of needs and local capabilities. Small energy technology companies cannot afford this up-front cost without a guarantee of selection to perform the work.

Helping California Companies Develop International Projects

The Energy Commission's Export Program has helped California companies develop industrial cogeneration projects in Thailand, energy efficiency projects in Malaysia, wind energy projects in Greece and Costa Rica; hospital cogeneration plants in Australia and Thailand; geothermal powerplants in the Philippines; village power projects using solar photovoltaics in Kenya and Tanzania. These projects and more have paved the way for business deals that produce jobs, revenue and an increased tax base for California.

Conserving Global Resources

The Export Program is not simply in the business of creating business. It is also in the business of conserving global resources by promoting more energy efficient technologies that produce less pollution. Foreign countries have become sensitive to the disadvantages of relying on petroleum as a dominant fuel source and are seeking a diversified energy supply mix. Foreign government representatives have expressed to the Energy Commission their interest in duplicating California's success in developing its indigenous energy resources such as geothermal, wind, hydropower, and solar energy.

Sharing Technology Know-how

The Export Program strives to share ideas and technology know-how to help people everywhere to improve their living standards and better harness the energy resources available in their own corner of the globe - in an economical and environmentally friendly way.

Through practical research and direct involvement with over 150 California energy technology companies, the Energy Commission has concluded that many of the problems faced by California energy companies are in the preconstruction activities of specific international projects.

Export Program Approach

The Energy Commission's Export Program has implemented activities to address these needs, by acting as a facilitator to stimulate partner matches between California firms and foreign parties. The Export Program approach includes activities to:

- § Provide pre-investment seed funding (for qualified companies) through its International Energy Fund.

II. Background, continued

- § Conduct international market and trade analyses.
- § Conduct preliminary site energy assessments to identify project opportunities for California companies.
- § Organize overseas trade missions to introduce foreign decision makers to California companies.
- § Arrange orientation visits for foreign energy officials to California energy generation sites and briefings with experts.
- § Advise foreign governments on energy policy and technology use as an entree for business development by California companies.

Export Program Primary Clients

The primary clients of the Energy Technology Export Program are California's power generation and energy conservation companies. The focus is on commercially available conventional and alternative energy technologies.

These companies may include: technology manufacturers, equipment fabricators, product distributors, and firms which provide know-how to measure or assess resources, evaluate energy efficiency potential, design and evaluate project feasibility, install equipment, construct, operate and monitor projects and offer related business management, marketing and financial services which meet the needs of foreign buyers or joint venture partners.

Export Program Sensitivity

The dualistic nature of the Export Program requires the selected Bidder to be sensitive to international protocol and foreign perspectives, while acting as an extension of the Energy Commission's program to help California businesses develop, enter or maintain their markets, increase sales, and improve the competitive position of California firms in international energy markets.

III. Work Statement

About This Section

In this section, the Commission describes the tasks the Bidder will be asked to perform under the direction of the Commission Contract Manager. This Section also describes the work assignment process, deliverables and due dates.

Introduction

The Energy Commission intends to award up to four single contracts for engineering technical assistance to the Export Program to conduct preliminary technical and engineering site assessments for energy technology projects by California energy technology companies. A consultant(s) will be required to conduct work in a foreign country(s) as determined by the Commission's Export Program.

The Commission is seeking Bidder(s) with experience and background in energy projects that have resulted in either energy savings, energy production or energy use projects. Bidder(s) should also have experience and background in performing this work in the U.S., California and foreign countries identified in this RFQ.

The Bidder(s) must be able to travel outside of the United States (U.S.) in the following two geographical regions:

- § Region 1: China, Asia, South East Asia (SEA), India, Pakistan, and Bangladesh
- § Region 2: Mexico, Central and South America, and the Caribbean

The work to be performed under this contract requires specialized knowledge and technical expertise in international project development and a working knowledge of the complex process-related issues associated with the design and operation of facilities consuming energy, saving energy or producing energy. When directed by the Energy Commission contract manager, the selected Bidder(s) will perform work in the following program technical areas:

- § Cogeneration power systems (< 1 MW)
- § Cogeneration power systems (> 1 MW)
- § Energy efficiency and demand-side management (DSM)
- § Small power generation systems

Primary Tasks

The scoring criteria in this RFQ is designed to favor Bidders who demonstrate:

1. The highest level of experience and expertise in each of the energy technology areas described;

III. Work Statement, continued

2. Result oriented projects; and
3. The highest level of experience and expertise in performing domestic and international energy work for the energy technology areas described above. Bidder tasks to be performed in each of the technical areas are described as follows:

Areas of Expertise

The Bidder shall be required to:

1. Possess the required equipment and analysis tools for conducting the technical energy audit and assessment of the facility,
2. Possess the ability to provide technical expertise to technical and engineering questions and solutions posed by the site and asked by the site owners,
3. Participate in meetings to discuss issues related to project development or technology recommendations;
4. Possess knowledge of the relevant energy issues or factors of the host country where the work is being conducted;
5. Possess technical ability to analyze and recommend strategies and steps for California companies to participate in the development of projects that have undergone assessment by the Energy Commission;
6. Possess skills and knowledge of the trade and business interests of the State of California and the Energy Commission's Export Program;
7. Develop preliminary design and bid specifications;
8. Measure and verify the performance of energy technologies; and
9. Provide contract invoicing services.

Technical Assessment Mission Work

The successful Bidder will be required to accompany a staff person from the Commission's Export Program to conduct the following technical assessment mission work:

- § Participate in meetings with staff and foreign host site owners and/or government representatives to initiate project development discussions;
- § Perform a preliminary engineering audit and assessment of the host facility/building site;

III. Work Statement, continued

- § Develop a comprehensive technical assessment mission report that includes a preliminary engineering site assessment and analysis evaluating the site, technology and cost options for potential project development by a California energy technology company, comprehensive daily summary of meetings and discussions, and a complete database identifying project representatives met during the mission; and
- § Perform follow-up activities for the Energy Commission to enhance the technical and engineering aspects of the project assessment work performed during the mission and to advance the business and export interests of California energy technology companies.

Work Authorizations

This is a "work authorization" contract and no work shall be undertaken unless authorized by the Commission Contract Manager through a specific written document called a work authorization.

The Commission Contract Manager will prepare and issue the written work authorizations and may set a maximum price, budget, and schedule for the work to be performed.

Selection of the contractor for project work and the development of a budget will be completed before the contractor receives approval for the work authorization.

Assignment of Work

The Commission Contract Manager shall assign work based on the need for Contractor s services, given Contractors particular area of specialty¹ in cogeneration under 1 MW, cogeneration over 1 MW, **or** energy efficiency **or** Small Power Systems.

The Contractor may also be assigned work in the specialty areas of Cogeneration, **or** Energy Efficiency, **or** Small Power Systems if the Commission determines that 1) the work on a given project as a whole is predominately cogeneration **or** energy efficiency **or** small power systems, or 2) depending on the contractors ranking for cogeneration **or** energy efficiency **or** small power systems and if the Contractors specialty in cogeneration **or** energy efficiency **or** small power systems is not available.

To reduce over-all project costs, the Commission may bundle several small projects (valued at less than \$10,000 each) into one work assignment and assign it under a single work authorization. To insure the highest level of customer service to the host site(s), the following factors will influence how work is assigned.

- § The Contractor s is availability within the required time frame.
- § The Contractor s ranking for the specialty work involved.

¹ Specialty to be determined after Contractor selection has taken place. Only specific specialty will be shown on contract and subsequent work authorizations.

III. Work Statement, continued

§ Whether a conflict of interest exists.

III. Work Statement, continued

Work Guarantee

Work flow will depend on customer demand for service and will be matched to the Bidder's experience and expertise. Demand is uncertain and, therefore, there will be no guarantee of work for the Bidder.

Nothing in this work assignment process shall be interpreted to mean that each Contractor will receive the same amount of work, work authorizations, or work authorization dollars as the other contractors under the Commission's International Energy Technology Export Program.

Deliverables

Invoices. The contractor will prepare an invoice for all contract expenses performed for assigned work authorizations. An advance copy of the invoice shall be sent to the Contract Manager to insure that all records are included and the invoice is for authorized work. The official invoice is to be submitted to the Commission's Accounting Office. The Commission's Contract Manager will specify the invoice format.

Work Authorizations. Work authorizations will be developed by the Commission's Contract Manager and assigned to a specific contractor. The selected contractor will then be sent the work authorization with the budget for signature and approval.

Contracts with Subcontractors. This RFQ does not anticipate the use of subcontractors for technical work tasks. However, when new subcontractors are hired or added, the contractor shall submit proposed subcontractor contracts to the Commission for review and approval. At the same time, the contractor shall provide the Commission with updated Disabled Veteran Owned Business Enterprise (DVBE) forms. The contractor is responsible for the quality of all subcontractor work.

Program meetings and briefings. At the request of the Commission's Contract Manager, the contractor shall be available for meetings or provide written and/or verbal program briefings to Commission staff or others. The Commission expects to hold no more than one (1) program briefing meeting per quarter.

Draft and Final Contract Report and Abstract. A Draft Final Report is due three months prior to the end of the contract. The Final Report and a 200-word abstract are due no later than fifteen days prior to the end of the contract. The Draft and Final Report shall include an analysis of:

- § The work accomplishments of the Bidder;
- § The effectiveness of this contract in meeting the objectives of the program, and
- § Future activities recommended to increase the effectiveness of the program and this contract.

IV. Statement Of Qualifications Format & Required Documents

About this Section

This section provides Bidders with information about how to prepare a Statement of Qualifications (SOQ) in response to this RFQ. Bidders must follow all SOQ format instructions, answer all questions and supply all requested data.

The Commission may reject any SOQ that fails to comply with the items presented in this section.

What is the Required Format?

The following topics constitute the mandatory order of presentation for an SOQ. Provide one (1) original and seven (7) spiral bound copies. Sections must be separated by tabs and labeled, all pages must be numbered, typed pages should be 12-point Times Roman type-face (or equivalent); one inch top and bottom margins and must be two-sided (except original):

Section 1 Administrative Response

Cover Letter

Table of Contents

Required Forms

- ☐ Contractor Status Form
- ☐ Small Business Preference Certification letter (if applicable)
- ☐ Completed Disabled Veteran Business Enterprise forms
- ☐ Certification Clauses Package

Section 2 Technical Response

Summary

Detailed Technical Approach

International Experience and Technical Expertise

Cogeneration Power Systems

Energy Efficiency

Small Power Generation

Firm Establishment

Qualifications and Experience

Equipment

References

Project Listing Form

Project Examples (one set to be submitted with original SOQ only)

Bidder Responsibility

It is the Bidders responsibility to review Grounds for Rejection and Conflict of Interest.

IV. SOQ Format and Required Documents, continued

IV. SOQ Format and Required Documents, continued

Volume 1 — Section 1, Administrative Response

Cover Letter

Each Bidder shall submit a cover letter on company letterhead that includes:

A reference to: REQUEST FOR QUALIFICATIONS, No.500-00-508 ; Summary of the Bidder's ability to perform the services described in the Work Statement; and, Statement that the Bidder is willing to perform those services and enter into a contract with the Commission.

The cover letter must be signed by a person having the authority to commit the Bidder to a contract.

Table Of Contents

Each Proposal must include a Table of Contents, organized in the order cited above and include corresponding page numbers.

Required Administrative Forms

Every Bidder must complete and include the following forms with their proposal:

1. Contractor Status Form, Attachment 1
2. Disabled Veteran Business Enterprise (DVBE) forms in Attachments 2.2-2.4. (Bidders who qualify as government agencies are exempt from this requirement).

A Short Explanation of the DVBE Process —If you are a non-governmental entity, you must have either three-percent DVBE participation, or you must demonstrate a good faith effort to obtain DVBE participation. It is important that you thoroughly read the instructions provided with each DVBE form. The DVBE compliance process is as follows:

If you are proposing to meet the three-percent participation goals, complete and submit Attachment 2.2, Attachment 2.3, and a copy(ies) of the DVBE certification letter(s) from the Office of Small Business Certification and Resources (OSBCR).

If you are proposing to partially meet the participation goals, complete and submit Attachment 2.2, Attachment 2.3, and attach a copy(ies) of the DVBE certification letter(s) from OSBCR, as well as Attachment 2.4 to demonstrate the good faith effort you performed to meet full participation. Your good faith effort must include advertising, which is explained on the reverse of Attachment 2.4.

If you have no DVBE participation in your proposal, you must complete and submit Attachment 2.4 to demonstrate the good faith effort you performed in your attempt to meet participation. Your good faith effort must include advertising, which is explained on the reverse of Attachment 2.4.

IV. SOQ Format and Required Documents, continued

If you or a subcontractor has applied for DVBE certification, complete the appropriate Attachments as explained above, and include a copy of the application.

3. Contractor Certification Clauses, Attachment 3
4. Customer References, Attachment 4

Volume 1 — Section 2, Technical Response

Summary

Summarize the Bidder's overall approach in completing the tasks outlined in the Work Statement.

Approach to Work Statement

This information will be used to evaluate the Bidder's approach to the Work Statement, described in Section III of this RFQ.

Please describe the Bidder's approach to the Work Statement, highlighting any outstanding features, qualifications and experience relevant to performing the technical work, including project management activities. Provide a short description of the Bidder and non-technical subcontractors, if any.

International Experience and Technical Expertise

Identify and describe the prime contractor (organization/company) and briefly describe each organization on the team, including subcontractors (DVBEs, if applicable), highlighting any special expertise that will be utilized in achieving the project objectives outlined in the Work Statement. Describe the strengths of your organization including accomplishments and past outreach efforts relevant to this project.

Describe how the proposed team knowledge and abilities will be used to provide the technical expertise and support work for the tasks described in Section III of this RFQ. Describe all international energy project related experience, such as engineering and design, project and construction management, commissioning, and highlight any additional experience that is relevant to the work to be performed under this contract.

Provide examples of the proposed Bidder's experience in performing work within the past 60 months in each of the technical areas listed in response to the Work Statement, Section III, of this RFQ. Explain the relevance of this prior work to the Work Statement and the proposed contract.

Categories of Project Experience

Cogeneration Power Systems (<1MW)

IV. SOQ Format and Required Documents, continued

Successful energy efficiency projects in this type of facility require a thorough understanding of cogeneration power systems involving the application of small power generation and industrial projects of less than one MW, the process, regulations, and operational strategies. The efficiency projects of greatest impact in these facilities may have limited energy data and specific economic and business information. The manner in which facilities use of process energy may affect project opportunities.

Therefore, individuals interested must have a background in civil engineering with experience in international energy management projects for cogeneration power systems. Provide a summary of engineering work performed in the following areas:

- § Cogeneration power theory and processes
- § Cogeneration power plant design
- § Cogeneration power plant operation
- § Energy audits of cogeneration power plants
- § Energy project feasibility analyses--energy and financial
- § Optimizing pumping systems
- § Selection of energy efficient motors
- § Variable frequency drive design and selection
- § Design and optimization of aeration systems
- § Process modifications
- § Strategies for load management
- § Development of bid specifications
- § Issues affecting success of energy management projects

Cogeneration Power Systems (>1MW)

Successful energy efficiency projects in this type of facility requires a thorough understanding of cogeneration power systems involving the application of small power generation and industrial projects greater than one MW, the process, regulations, and operational strategies. The efficiency projects of greatest impact in these facilities may have limited energy data and specific economic and business information. The manner in which facilities use of process energy may affect project opportunities.

Therefore, individuals interested must have a background of civil engineering with experience in international energy management projects for cogeneration power systems. Provide a summary of engineering work performed in the following areas:

- § Cogeneration power theory and processes
- § Cogeneration power plant design
- § Cogeneration power plant operation
- § Energy audits of cogeneration power plants
- § Energy Project feasibility analyses--energy and financial
- § Optimizing pumping systems

IV. SOQ Format and Required Documents, continued

- § Selection of energy efficient motors
- § Variable frequency drive design and selection
- § Design and optimization of aeration systems
- § Process modifications
- § Strategies for load management
- § Development of bid specifications
- § Issues affecting success of energy management projects

Energy Efficiency and Demand-Side Management (DSM)

Bidders must possess expertise in analyzing efficiency improvement options in commercial buildings and industrial facilities. Therefore, individuals interested must have a background in engineering or architecture with experience in international project development for energy efficiency and demand-side management. Provide a summary of engineering work performed in the application of technologies involving the use of:

- § Energy efficient lighting systems, controls, and daylighting
- § Energy efficient HVAC systems, including boiler, chiller optimization, controls and motor efficiency improvements
- § Energy efficient building envelope design
- § Implementation of direct digital controls and building automation systems, and
- § Conducting comprehensive energy audits

Small Power Generation Systems

Bidders in this area must possess expertise in power generation systems producing electricity for non-grid (remote) and/or grid-connected applications of less than 50 MW. Therefore, individuals interested must have a background in engineering with experience in international project development for small power generation systems. Provide a summary of engineering work performed in the following areas:

- § Electric generation involving various conventional and non-conventional fuel sources such as natural gas, solar, hydro-electric, biomass, photovoltaics and wind
- § Design of cogeneration systems using digester gas or municipal solid waste (MSW)
- § Optimization of existing cogeneration systems
- § Micro-hydro generation

Firm Establishment

Please describe the proposed firm, including the date the firm was established, and location of proposed staff to be assigned to this contract. Provide an organizational chart for the Bidder showing all assigned non-technical staff, their positions or proposed roles in this contract, and organizational relationship to the rest of the firm.

IV. SOQ Format and Required Documents, continued

Identify the primary contact person for the Commission Contract Manager (this person must also attend the Stage 3 interview session if the Bidder advances to Stage 3 of evaluation).

If the proposed Bidder does not have an office in California, explain how you propose to minimize costs to the State for work performed in Sacramento, and overseas. Describe any technical capabilities that would facilitate communicating information to the Commission, such as Internet connectivity and electronic reporting capabilities.

Qualifications and Experience

Bidders must provide the following information:

- § List the individual or principal engineers who will provide the technical services throughout this contract;
- § Include the individual's job classification, academic degree(s), professional registration, area(s) of contract responsibility, and percentage of time on a monthly basis that the individual will be used for this contract;
- § Describe the relevant experience of the listed technical engineer in performing pertinent tasks identified in the Work Statement;
- § Provide a current resume or biographical sketch; and
- § Identify the percentage of time that the proposed Bidder and subcontractors will be used throughout the contract.

Equipment

Describe what currently-owned or -leased computers, printers, copiers, facsimile machines, modems, or other types of equipment will be used to accomplish the tasks listed in the Work Statement. Describe what data collection equipment (i.e. flue gas analyzer, amp/watt meter, power demand analyzer, flow meter, digital thermometer, oxygen sensor, wind anemometer, data logger for motors and pumps, water pressure gauge, light meter, etc.) you own to conduct cogeneration energy efficiency resource measurements. Discuss the availability of this equipment for use by the individual assigned to this contract.

Please list all currently-owned computer software programs by name and edition (e.g., Microsoft Office Suite, Word, Access, and Excel 5.0) which may be used to accomplish the tasks listed in the Work Statement. List the building simulation programs that you currently own that may be used to accomplish the tasks listed in the Work Statement (i.e. DOE 2.1, E, Trace 600, HAP, Light Pro, Pool Models, etc.). Describe your company's experience with these simulation programs.

Computer System Compatibility

The Contractor shall prepare and submit all products to the Commission Contract Manager in Windows 4.0 compatible format using the following Commission supported software:

IV. SOQ Format and Required Documents, continued

Software Type	Windows 4.0 or 98
Word Processing	Microsoft Office
Spreadsheet and Database	Microsoft Office
Charts/Graphics	Microsoft Office
Presentations	Microsoft Office
Desktop Publishing	PageMaker
Printers	HP LaserJet

IV. SOQ Format and Required Documents, continued

References

Each Bidder shall complete a Customer Reference form, Attachment 4. References shall include name of contact person, company name and address, telephone and fax number. References shall coincide with each submitted project work example provided with the SOQ.

Project Listing Form

Please complete and include Exhibit B, Project Listing Form, for all work examples provided with the original SOQ. Include only work examples that were produced by the individual listed in the SOQ available to work on this contract. Clearly label each example with the proposed Bidder's name and the sample # as referenced on Exhibit B. Include a client reference on Attachment 4, Customer Reference, for the work samples provided with the SOQ.

Examples of Prior Work

Provide as an Appendix to the original SOQ only, one copy each of up to five example energy projects. A minimum of five project examples must be submitted, of which should be international projects. Preference will be given to international projects, especially those completed. These examples may include, at a minimum, the following work products:

Biogas Municipal Solid Waste Energy Study: An energy survey and project feasibility analysis (energy audit) report for a municipal solid waste treatment plant.

Remote Solar Electric Study: An energy survey and project feasibility analysis (energy audit) report to install solar electric systems off-grid for remote power systems.

Building Energy Study: An energy survey and project feasibility analysis (energy audit) report for an industrial park.

Industrial Cogeneration Power Plant: A cogeneration system optimization feasibility analysis for a food processing plant.

Building Energy Bid Specification: A bid specification for building energy efficiency.

A single report may be used to satisfy more than one of the above requirements.

Clearly label each example with the proposed Bidder's name and the sample # as referenced on Exhibit B. Include a client reference on Attachment 4, Customer Reference, for the work samples provided with the SOQ as noted above.

All samples will be returned to the Bidder if requested within 60 days following the award of the contract.

IV. SOQ Format and Required Documents, continued

Conflict of Interest

The Commission would like to avoid incompatible activities and conflicts of interest of the Contract team in performing work under this contract. Therefore, each RFQ Bidder is required to:

Disclose current involvement as consultants and/or project developers in international projects.

Agree not to bid on project proposals with the intention of developing projects or enter into an association or agreement with a project developer or consultant to develop projects during the term of this agreement.

Agree not to bid or enter into a contract with a project developer or independent consultant on an RFQ or project in which the Contractor or any subcontractor has provided assistance under this contract.

Agree to continuously review new and upcoming projects that members of the Contract team may be involved in for potential conflicts of interest. The Contractor shall report its findings each month in its monthly progress report.

The Contractor or subcontractor shall not participate in the review, evaluation, or assistance of:

Any project seeking assistance under the Energy Technology Export Program for which the Contractor or subcontractor has become a project developer or independent consultant in a situation covered by the paragraph above; or,

Any project for which, within twelve (12) months prior to the start date of this contract or at anytime during this contract, the Contractor or subcontractor has provided assistance under a separate contract to the project proponent that is seeking assistance for the same project under the Energy Technology Export Program.

Consequences of Violation

In the event that the above terms are violated or are suspected of being violated, the Commission, in its sole and unfettered discretion, may (a) direct Contractor and/or subcontractors to proceed; (b) disqualify the Contractor and/or subcontractors from review of a specific proposal; (c) disqualify the Contractor and/or subcontractors from review of a related group of proposals; or (d) disqualify Contractor and/or subcontractor from review of all proposals associated with a specific offering or program in addition to all other remedies the Commission has provided for in this contract.

V. Administrative Information

What Is An RFQ?

The competitive method used for this procurement of services is a Request for Qualifications (RFQ). A Statement of Qualifications (SOQ) submitted in response will be scored and ranked based on the criteria in Section VI. Every SOQ must establish in writing the Bidder's ability to perform the RFQ's tasks stated in Section III. The Commission will negotiate a contract with the best qualified Bidder(s) at compensation the Commission determines to be fair and reasonable.

How are Key Words Defined?

Important definitions for this RFQ are presented below:

Word/Term	Definition
Commission	California Energy Commission
RFQ	Request for Qualifications - this entire document.
Statement of Qualifications (SOQ)	Formal written response to this document.
Bidder	Firm/single individual responding to this RFQ.
Consultant	Successful individual selected to perform work
Contract Manager	Commission staff in charge of contract matters.
Export Program	Energy Technology Export Program

Are There Important Selection Process Steps?

Notice of Selection

Subsequent to the SOQ evaluations, the Commission will post a Notice of Selection on May 18, 2001, after 3:00 PM at:

California Energy Commission
Contracts Office
1516 Ninth Street, MS-18
Sacramento, CA 95814

Interviews

Interviews will be conducted during the Evaluation Process for this RFQ. Bidders should anticipate travel to the Energy Commission Headquarters. Interviews dates are tentatively scheduled for May 15-16, 2001.

Negotiations

V. Administrative Information, continued

Pursuant to Title 20, California Code of Regulations (CCR), Section 2565 and Public Contract Code (PCC) 6106, within 14 days after posting the Notice of Selection the Commission will begin negotiations with the top ranked Bidders in each specialty area for an acceptable fee and contract. The selected Bidders will be required to submit a list of contractor rates after written notification of selection.

If negotiations with the three top ranked Bidders fail, the Commission will enter into negotiations with the next highest ranked Bidders, and so on.

How do I deliver My Statement of Qualifications?

A Bidder may deliver an SOQ by:

U. S. Mail
in person, or
messenger service.

If using the U.S. Mail, the SOQ must arrive at the Commission prior to 5:00 p.m. on May 3, 2001. **There are no exceptions for delay in mail delivery.** If a Bidder chooses either of the last two methods, delivery prior to May 3, 2001 must be made during normal business hours of 8:00 AM - 5:00 PM, Monday through Friday. Delivery on May 3, 2001 must be made by 5:00 PM. Facsimile (FAX) transmissions **SHALL NOT** be accepted in whole or in part under any circumstances.

What is the Deadline for Submitting a Statement of Qualification?

Each Bidder is solely responsible for delivery of an SOQ to the Commission. The Commission will not accept late SOQs.

The deadline for SOQ submission is May 3, 2001, at 5:00 PM, in accordance with Public Contract Code Sections 10344 and 10377.

Where Do I Deliver My Proposal?

All SOQs must be **delivered** by 5:00 PM on May 3, 2001 to:

California Energy Commission
1516 Ninth Street, 1st Floor
Contracts Office, MS-18
Sacramento, CA 95814

How Many Copies Do I Submit?

V. Administrative Information, continued

Each Bidder must mail or deliver an **original SOQ (1) and seven (5) copies** to the address given above. The Bidder must submit the copies in a sealed envelope labeled Statement of Qualifications for the International Energy Technology Export Program, RFQ #500-00-508.

V. Administrative Information, continued

Are There Important Administrative Details I Should Know?

Disabled Veteran Enterprises

This contract is subject to a participation goal of three percent (3%) for certified California Disabled Veteran Business Enterprises (DVBE) as set forth in Public Contract Code Sections 10115, et seq. See Attachments 2.1-2.4. Bidders must provide DVBE qualifications, experience and duties to be performed under the work statement. For each DVBE program participant, Bidders shall provide information requested in, and format required in Section IV.

Small Business Preference

Government Code Sections 14835, et seq., requires that a five percent (5%) preference be given to any Bidder who is certified by the State of California as a small business. A Bidder who claims this preference may include a copy of its approved certification form in the Bidder's proposal.

Bidders' Cost

The Bidder is responsible for the cost of developing a proposal, and this cost cannot be charged to the State.

Drug-Free Workplace

The successful Bidder(s), by signing the final contract, certifies compliance with California Government Code Section 8350 et seq., which relates to providing a drug-free workplace.

Americans With Disabilities Act

The successful Bidder(s), by signing the final contract, certifies compliance with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.) which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Recycled Paper and Products

The successful Bidder(s) shall certify in writing the minimum, if not exact, percentage of recycled content of paper used in the performance of the contract, regardless of whether the product meets the required recycled product percentage defined in Section 12161 and 12200. The successful Bidder(s) may certify that the product contains zero recycled content. (PCC/10308.5).

Can The Commission Cancel This RFQ?

Yes, if it is in the State's best interest, the Commission reserves the right to do any of the following:

V. Administrative Information, continued

- § Cancel this RFQ;
- § Amend this RFQ as needed; or
- § Reject any or all Proposals received in response to this RFQ

Can The Commission Amend This RFQ?

If the RFQ must be amended, the Commission will mail a formal written addendum to all parties who requested the RFQ in writing, and also post it on the Commission's Web Site: www.energy.ca.gov/contracts and Department of General Services Web Site: www.dgs.ca.gov/cscr.

Errors

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQ, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Clarifications will be given by written notice of all parties who have obtained an RFQ, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

What Are The Contract Requirements?

Term of the Contract

The contract will be effective for up to three years, beginning from the commencement of the contract term.

RFQ In Final Contract

At the Commission's discretion, the content of this RFQ may be incorporated into the final contract.

Contract Cancellation

The Commission reserves the right to terminate any contract awarded through this RFQ by providing 30 days advance notice to the successful Bidder.

Contract Amendment

The contract executed as a result of this RFQ will be able to be amended by mutual consent of the State and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.

Audit

V. Administrative Information, continued

The Bureau of State Audits may audit a contract awarded under this RFQ for a period of three years after the final payment or termination of the contract.

V. Administrative Information, continued

What If I Decide To Modify Or Withdraw My Proposal?

A Bidder may, by letter to the Contact Person, withdraw or modify a submitted SOQ prior to the SOQ submission date.

Can I Use Sub-Contractors?

Yes. Any subcontractors the Bidder chooses to use in fulfilling the requirements of this RFQ, that are expected to receive more than ten percent (10%) of the value of the contract, must also meet all administrative and technical requirements of this RFQ. The Bidder must provide a summary of each subcontractor's qualifications, including DVBE firms, experience and duties that would be performed under the Work Statement.

Also, for all DVBE firms regardless of the amount they receive, the Bidder must provide a summary of the DVBE's qualifications, experience and duties that would be performed under the Work Statement. The summary shall contain the information requested in, and format required by, Section IV. DVBE cost information must also be included in the Cost Proposal.

The Commission anticipates that subcontractors may perform technical tasks or travel overseas. However, the Commission does expect subcontractors to be used to perform non-technical tasks (i.e., travel, printing, purchasing, etc.). If a Bidder intends to use subcontractors described in the SOQ, the Bidder must identify the subcontractor(s) in its SOQ. Each Bidder must provide a summary of each subcontractor(s) qualifications, experience and duties that would be performed under this RFQ. The Contractor is responsible for the quality of all subcontractor work, and may only replace subcontractors as specified under the terms of the contract.

How Do I Know If I've Been Awarded A Contract?

Subsequent to the Qualifications evaluations, the Commission will post a Notice of Selection at the Commission's headquarters in Sacramento, and on the Commission's Web Site, on or about May 18, 2001, after 3:00 p.m. at:

California Energy Commission
Contracts Office
1516 Ninth Street, MS-18
Sacramento, CA 95814

What Happens To My Documents?

On the submission date, all SOQs and related material submitted in response to this RFQ become the property of the State and a public record.

V. Administrative Information, continued

Commission Issued RFQ

The California Energy Commission has issued this RFQ on behalf of the State of California. The Commission is the sole point of contact concerning this RFQ. The Contact Person for questions is:

Elizabeth Stone, Contract Officer
Telephone: (916) 654-4788
FAX: (916) 654-4423

When Is The Deadline For Questions About This RFQ?

Potential Bidders may ask questions about the requirements of this RFQ. Bidders must prepare their questions in writing and send or FAX them to the Contact Person. Questions will be answered in writing and distributed to recipients of the RFQ. **The deadline for written questions is March 29, 2001.**

Nondiscrimination Certification

Any bid, proposal, or offer for a contract which is submitted by a contractor who has been decertified from contracting with the State by the Department of Fair Employment and Housing (DFEH), shall be deemed to be nonresponsive. Refer to the California Notice Register for a list of decertified contractors. (Published by the Office of Administrative Law and available through the Office of State Printing).

Statement of Compliance

All employers who are, or wish to become, contractors with the State must develop and implement a nondiscrimination program as defined in Title 2, California Code of Regulations (CCR) Section 8104; unless specifically exempted pursuant to Title 2, CCR Section 8115, which includes contracts under \$5,000 and contracts with licensed rehabilitation workshops. See Government Code Sections 12935(a) and 12290(d); and Title 2, CCR Section 8103. See Attachment 3.

Bidders Admonishment

This RFQ contains the instructions governing the requirements for the format in which the statement of qualifications information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities.

On What Grounds Would My Proposal Be Rejected?

A Statement of Qualifications shall be rejected if:

V. Administrative Information, continued

- § It is received after the exact time and date set for receipt of Proposal s pursuant to Public Contract Code, Section 10344.
- § It is considered nonresponsive to the California Disabled Veteran Business Enterprise participation requirements.
- § It is lacking a properly executed Certification Clauses, Attachment 3.
- § It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- § The SOQ is intended to erroneously and fallaciously mislead the State in its evaluation of the Proposal and the attribute, condition, or capability is a requirement of this RFQ.
- § There is a conflict of interest as contained in Public Contract Code Sections 10410, 10411 and/or 10365.5.

A Statement of Qualifications may be rejected if:

- § It is not prepared in the mandatory format described.
- § It is unsigned.
- § The firm or individual has submitted multiple qualifications for each task.
- § It does not literally comply or contains caveats that conflict with the RFQ and the variation or deviation is not material, or it is otherwise nonresponsive.

The Commission may waive any immaterial defect or deviation contained in a Bidder s proposal. The Commission s waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

VI. Qualifications Evaluation

Evaluation Stages

To analyze all SOQs, the Commission will organize an Evaluation Committee whose members have expertise in evaluating consulting services. The committee will analyze the SOQs in three stages:

Stage One: Fulfillment of RFQ Mandatory Format

The Contracts Office will first screen the SOQs to determine compliance with the mandatory format and grounds for rejection outlined in Section V. Bidders who do not follow the mandatory format may be eliminated from the competition. After the first screening, all Bidders will be scheduled for an interview.

Stage Two: Evaluation of Qualifications

The Evaluation Committee will then review and score all remaining SOQs based on the Evaluation Criteria, Exhibit A. After the review, the committee will schedule interviews with all Bidders. If three or less Bidders submit SOQs, all the qualifying Bidders will be interviewed.

Stage Three: Interviews

The Evaluation Committee may use patterned questions to conduct Bidder interviews; Bidder responses will be scored. Upon completion of the interviews, the Evaluation Committee may make adjustments to the scores and rerank the top competitors.

The Evaluation Committee may reject all Bidders and SOQs if none are considered to be in the best interest of the Commission. If the Evaluation Committee does decide to make a selection, it may award multiple contracts based on the highest scored Bidders.

Point Considerations

The Evaluation Committee will award points based on the following considerations:

Fail: 0 - 49% of maximum points for the criterion

Below Average: 50 - 59% of maximum points for the criterion

Average: 60 - 69% of maximum points for the criterion

Above Average: 70 - 89% of maximum points for the criterion

Exceptional: 90 - 100% of maximum points for the criterion

Criteria and Points

The Evaluation Committee will review the SOQs and Bidders based on the criteria in Exhibit A.

EXHIBIT A

EVALUATION: WEIGHTING FACTORS AND CRITERIA

REFERENCES PROVIDED ON ATTACHMENT 4 WILL BE CONSIDERED THROUGHOUT THE SCORING CRITERIA

	Criteria	Weight Factor	X	Points (0-10)	=	Weighted Points
1.	APPROACH TO WORK STATEMENT (14%)					
1a.	Response and approach to work statement	6	X		=	
1b.	Clarity and succinctness of proposal	4	X		=	
1c.	Experience and knowledge of the energy industry and energy export interests of California	5	X		=	
2.	CONSULTANT EXPERIENCE AND TECHNICAL EXPERTISE IN AREA (53%)					
2a.	Depth and quality of experience in technology area					
	Energy Efficiency	7	X		=	
	Cogeneration (less than 1 MW)	7	X		=	
	Cogeneration (more than 1 MW)	7				
	Small Power Generation	7	X		=	
2b.	Depth and quality of project examples and references (energy savings, energy producing and energy using)					
	Energy Efficiency	7	X		=	
	Cogeneration (less than 1 MW)	7	X		=	
	Cogeneration (more than 1 MW)	7				
	Small Power Generation	7	X		=	
3.	ORGANIZATION (9%)					
3a.	Organizational strengths of individual and ability to satisfy timelines for deliverables	5	X		=	
3b.	Explanation of methods to minimize costs to the State	3	X		=	
3c.	Availability of equipment	2	X		=	
4.	INTERVIEW (24%)					
4a.	Explanation of approach to work Energy Efficiency Cogeneration (less than 1 MW) Cogeneration (more than 1 MW) Small Power Generation	9	X		=	
4b.	Quality of answers to structured questions	8	X		=	
4c.	Quality of presentation and response to hypothetical	8	X		=	
	MAXIMUM EVALUATION POINTS:					1060
	MINIMUM POINTS: (80%)					848

Exhibit B

PROJECT LISTING FORM Sample Work Products

Sample #	Report Title	Client*	Category of Work Sample**	Bidder***	Bidder Role
<i>Example</i>	Energy Survey of the Municipal Water System for the City of Woodland	City of Woodland Water Department	Water System Study Building Study	Jane Smith	Project mgr, primary author
1	Bangkok Bank Building Energy Audit	Bangkok Bank Group	Comprehensive Building Energy Audit		
2					
3					
4					
5					
6					

* Please include references for at least three of the above work samples in Attachment 6, Customer References.

** Required categories are: Biogas Municipal Solid Waste Energy Study, Remote Solar Electric Study, Building Energy Study, Industrial Cogeneration

Power Plant, Building Energy Bid Specification.

*** List only the individual included in your SOQ (person who will be assigned to this project).

ATTACHMENT 1

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

CONTRACTOR STATUS FORM

Contractor's Name _____

County _____

Address _____

Federal Employer ID

Phone

FAX

STATUS OF CONTRACTOR PROPOSING TO DO BUSINESS

☐ Individual

☐ Limited Partnership

☐ General Partnership

☐ Corporation

☐ Other

INDIVIDUAL

If a sole proprietorship, state the true name of sole proprietor:

PARTNERSHIP

If a partnership, list each partner, including limited partners, stating their true name and their interest in the partnership:

CORPORATION

If a corporation, place and date of incorporation: _____

Date corporation was authorized by Sect. of State: _____

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

Agent for service of process and address if different from above:

OTHER

Explain:

SMALL BUSINESS PREFERENCE

Are you claiming preference as a small business?

☐ YES - Attach approval letter from Office of Small and Minority Business.

☐ NO

Date you filed for small business preference: _____ Your small business ID number: _____

NOTE: This form must be completed or your proposal may be rejected.

ATTACHMENT 2.1

SMALL BUSINESS AND DVBE CERTIFICATION INSTRUCTIONS

The OSBCR address and phone for Small Business Preference and DVBE information is:

Department Of General Services
Office of Small Business Certification and Resources
1531 I Street, 2nd Floor
Sacramento, CA 95814-2016
Phone No.: (916) 322-5060

Small Business Certification

In order to receive Small Business Preference, Bidder must either be certified by the State Department of General Services, Office of Small Business Certification and Resources (OSBCR) as a small business, or be self-certified pursuant to the Federal Government.

DVBE Certification

- o Each DVBE firm listed on Attachment 2.3 must be formally certified as a DVBE by OSBCR. The DVBE program is not a self-certification program. DVBE certification must be approved by OSBCR by the notice of award date of the contract to be counted in meeting participation goals.
- o A copy of the certification letter approved by, or a copy of the certification form submitted to OSBCR must be included in the proposal package.

To qualify as a DVBE, the DVBE must:

- 1) Be a California resident;
- 2) Own 51% of the firm and meet the requirements: in 3) and 4) below.
- 3) Provide to the OSBCR, by no later than 5:00 p.m. on the date on which the proposal is due, an Award of Entitlement from the United States Department of Veterans Affairs or the United States Department of Defense, issued within 6 months of the date on which certification is sought, which would certify or declare the existence of a service-connected disability, of at least 10 percent, at the time of application for or renewal of certification as a DVBE, and
- 4) Meet all requirements set forth in Article 6 (commencing with Section 999) of Chapter 6, Division 4 of the California Military code.

The Internet addresses are:

OSBCR Homepage: <http://www.dgs.ca.gov/osbcr>

This internet site provides general information about the DVBE program and certification process.

DVBElist: <http://www.dgs.ca.gov/osbcr/dvbe/dvbe.htm>

OSBCR maintains a list of certified DVBEs. The list is separated into three main subject areas: Commodities, Construction, and Services. Within each subject area, there are more specific areas of expertise. The Energy Commission does not have separate DVBE lists.

ATTACHMENT 2.2

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

**PRIME BIDDER'S CERTIFICATION OF
DISABLED VETERAN-OWNED BUSINESS PARTICIPATION**

See Instructions on Reverse

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a disabled veteran business enterprise complies with the relevant definition set forth in Section 1896.62(d) of Title 2, California Code of Regulations hereof.

In making this certification, I am aware of Section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State, and Section 10115.10 of the Public Contract Code making it a crime for intentionally making an untrue statement in this certificate.

COMPANY NAME/BIDDER (Please type or print)	RFP #
BIDDER'S SIGNATURE	DATE SIGNED
PRINTED NAME OF PERSON SIGNING	TITLE OF PERSON SIGNING (Business Owner/Chief Executive Officer)

NOTE: *If DVBE participation is proposed, this form must be completed and signed by the bidder or the proposal will be rejected.*

Bidder's Certification of DVBE Participation - Attachment 2.2

If the bidder is proposing to meet the DBVE participation goal, the bidder must sign a certification that each firm listed on Attachment 2.3 meets the legal definition of DVBE and the bidder is aware of the penalties for fraud.

- o Company Name - legal company name of prime bidder.
- o Bidder's Signature - person authorized (CEO) to sign.
- o Printed Name - printed name of person who signed.
- o Title - title of person signing - Business Owner, Chief Executive Officer, Manager.

Only the company (bidder) submitting the proposal must sign this certification.

ATTACHMENT 2.3
RFP 500-00-508

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

LIST OF DISABLED VETERAN OWNED BUSINESS PARTICIPATION

(1) Company Name	(2) Nature of Work	(3) Contracting With	(4) TIER	(5) Claimed 2) DVBE Value %	(6) Certification Letter from OSMB Attache
TOTAL				%	

NOTE: *If proposing participation goals, this form must be completed or your proposal will be rejected. See instructions on reverse of this form of the RFP.*

ATTACHMENT 2.3
RFP 500-00-508

DVBE Participation List —Attachment 2.3

If the participation goals are partially or fully met, Attachment 2.3 must be completed detailing the type of work, the companies (subcontractors and vendors) proposed for DVBE participation, and all other related information.

Col. 1 - DVBE company name - each DVBE company must be certified by or have submitted Attachment²4 (application for DVBE certification) to OSBCR by the proposal due date.

Col. 2 - Nature of Work - Type of Expertise, Technology, Service, Supplier, etc.

Col. 3 - Contracting with - Company name that the DVBE company is contracting with. For example, the bidder may be contracting with a company (XYZ, Inc.) who deals with a DVBE. Then XYZ, Inc. would be entered in Column 3.

Col. 4 - Tier - Contracting tier according to the following:

- 0 = Bidder;
- 1 = Primary subcontractor/supplier;
- 2 = Subcontractor/supplier of Level 1 subcontractor/ supplier;
- 3 = Subcontractor/supplier of Level 2 subcontractor/ supplier.

Col. 5 - Claimed DVBE, % value.

Percent of contract dollars committed to the DVBE listed. This percentage is the amount that will be paid to each DVBE company/vendor from the contract funds.

NOTE: This percentage is not the ownership of the company.

Col. 6 - Certification Letter attached.

This column is a checkpoint for you to ensure that all of the DVBE certification letters are in your proposal. If a certification letter is omitted, that DVBE company cannot be counted towards meeting the goals.

DVBE certification approval letter or a copy of the DVBE Application must be included in the proposal. DVBEs must be certified by the time of contract award in order to count in the participation goals.

You must clearly identify in the Work Statement, Tasks & Budget what services will be provided and the costs related to each DVBE.

ATTACHMENT 2.4

RFP 500-00-508

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

DOCUMENTATION OF GOOD FAITH EFFORTS

Section 1. ORGANIZATION CONTACTS

List below the contacts made in an effort to identify potential DVBEs for participation in this contract. Include dates, times (if known), contact names and phone numbers.

Agency	Name	Phone	Date/Time
A. CA Energy Commission		(916) 654-4392	
B. Other State Agencies			
C. DVBE Organizations			

Section 2. ADVERTISING

List the trade papers and DVBE focused papers in which you advertised for participation in this contract. Include the dates of advertisement.

Trade	Ad Date	Publication Name	Copy Attached

NOTE: *If your proposal does not meet the 3% disabled veteran participation goal, this form must be completed to meet "Good Faith Efforts." These are the minimum requirements, therefore failure to fully complete each section of this form will result in rejection of the proposal as nonresponsive.*

Attachment 2.4 (Continued)

Section 3. DVBES CONSIDERED

- A. Attach Solicitation Sample or Phone Conversation.
- B. List DVBES that you contacted for participation in this contract along with the dates you sent the solicitations or called them.
- C. List DVBES that you considered for participation in this contract and state the reasons the DVBES were not selected.

Date Contacted	Name of Company	Nature of Work	Reason Considered But Not Selected	Date

NOTE: If your proposal does not meet the 3% disabled veteran participation goal, this form must be completed to meet "Good Faith Efforts." These are the minimum requirements. If you do not complete each section of this form will result in rejection of the proposal as nonresponsive.

ATTACHMENT 2.4 (CONTINUED)
INSTRUCTIONS FOR ATTACHMENT 2.4
DOCUMENTATION OF GOOD FAITH EFFORTS

If a bidder's proposal does not meet the participation goals, then the bidder must document its "good faith effort" to meet the participation goals. The minimum requirements for meeting good faith documentation under the law are CONTAINED in Attachment 2.4, therefore each item in Attachment 2.4 must be accomplished and documented. (Public Contract Code Part 10115.2) IF THE PROPOSAL DOES NOT MEET THE 3% DVBE PARTICIPATION THEN, FAILURE TO PERFORM, COMPLETE AND SUBMIT ATTACHMENT 2.4 WILL BE CAUSE FOR REJECTION OF THE FINAL PROPOSAL AS NONRESPONSIVE TO THE GOOD FAITH EFFORTS REQUIREMENT.

Information is available at:

DGS-DVBE Resources Packet —www.osmb.dgs.ca.gov/scrp/resource.pdf —916-322-5060
California Energy Commission DVBE handbook —916-654-4392

Part 1 - ORGANIZATION CONTACTS

List each contact by date, time, name, and phone number. Each bidder is required at a minimum to undertake steps A, B, C, and D, and to document all efforts under each step. [Public Contract Code Part 10115.2 (b)]. *The purpose of making each of these contacts is to obtain the resources/contact groups who can refer you to or provide you with lists of DVBEs.*

The DVBE list available from DGS consists of commodities and services (including consultant services).

Part 2 - ADVERTISING

Advertising is required as part of the good faith effort documentation.

- o Advertising must be made in at least two publications: one trade (e.g., work being performed in the project and reimbursed by the Commission) and one DVBE focused.
- o Both advertisements must appear not less than 14 calendar days prior to bid proposal submittal date, to allow reasonable time for consideration of DVBEs.
- o The advertisements for DVBE (including names of publications, dates of advertisement and copies of advertisements) must be documented in the bidder's proposal.

NOTE: *General circulation newspapers such as the Los Angeles Times or the Sacramento Bee are not acceptable, since neither one qualifies as a trade or focus publication.*

Part 3 - DVBE S RESPONDING AND CONSIDERED

List and identify each DVBE that was contacted and state the reason why they were not selected. DVBE businesses considered must have appropriate qualifications for the work to be performed in the project.

DVBE participation is not limited to any specific portion of the project work. Participation may be from technical firms, but it may also come from nontechnical firms that are part of your daily business operations such as travel agencies, stationary supplies, delivery companies, etc.

NOTE: *The bidder must make actual contact with DVBEs. Services provided by DBVEs must be a reimbursable item under the project.*

ATTACHMENT 3
RFP 500-00-508
CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1)

the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
 - a. Current State Employees (PCC 10410):
 - 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
 - 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
 - b. Former State Employees (PCC 10411):
 - 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
 - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste

Std. CC (New 2-01)

discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.

~~Attachment 4~~
RFP 500-00-508
CUSTOMER REFERENCES

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
CONTRACTS OFFICE

CUSTOMER REFERENCES
Provide a minimum of 4 references, use additional pages as needed.

ATTACHMENT 4

Reference #1

Name of Organization	
Address	
Contact Name	
Contact Title	
Contact Phone Number	
Describe the services and products your firm provided to the organization.	

STANDARD AGREEMENT**APPROVED BY THE
ATTORNEY GENERAL**

STD. 2 (REV. 5-91)

CONTRACT NUMBER	AM. NO.
500-00-XXX	
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into this _____ day of _____, 20 01,
in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE

Executive Director

CONTRACTOR'S NAME

AGENCY

State Energy Resources Conservation
& Development Commission

, hereafter called the State, and

, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: *(Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specification, if any.)*

1. PURPOSE

The purpose of this contract is to provide engineering and technical assistance services to the Energy Technology Export Program to perform preliminary site evaluations and assessments for project development and follow-up activities for the Energy Commission and California energy technology companies.

2. TERM

The term of this contract shall be from June 30, 2001 to June 30, 2004, but shall not become effective until approved by the Department of General Services, Legal Office.

CONTINUED ON _____ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR			
AGENCY State Energy Resources Conservation and Development Commission		CONTRACTOR <i>(If other than an individual, state whether a corporation, partnership, etc.)</i>			
BY (AUTHORIZED SIGNATURE) ▷		BY (AUTHORIZED SIGNATURE) ▷			
PRINTED NAME OF PERSON SIGNING Cheryl Raedel		PRINTED NAME AND TITLE OF PERSON SIGNING			
TITLE Manager, Contracts Office		ADDRESS			
AMOUNT ENCUMBERED BY THIS DOCUMENT \$	PROGRAM/CATEGORY (CODE AND TITLE)	FUND TITLE			Department of General Services Use Only
	(OPTIONAL USE) See Attached				
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$	ITEM	CHAPTER	STATUTE	FISCAL YEAR	
TOTAL AMOUNT ENCUMBERED TO DATE \$	OBJECT OF EXPENDITURE (CODE AND TITLE)				
<i>I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.</i>		T.B.A. NO.	B.R. NO.		
SIGNATURE OF ACCOUNTING OFFICER ▷			DATE		

☐ CONTRACTOR ☐ STATE AGENCY ☐ DEPT. OF GEN. SER. ☐ CONTROLLER ☐

STANDARD AGREEMENT

STD. 2 (REV. 5-91) (REVERSE)

1. The Contractor agree to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the contractor in the performance of this contract.
2. The Contractor, and the agents and employees of Contractor, in the performance of the agreement, shall act in an independent capacity and not as officers or employees or agents of State of California.
3. The State may terminate this agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this agreement, and the balance, if any, shall be paid the Contractor upon demand.
4. Without the written consent of the State, this agreement is not assignable by Contractor either in whole or in part.
5. Time is of the essence in this agreement.
6. No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
7. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

3. INTERPRETATION

- A. In the interpretation of this Contract, any inconsistencies between the terms hereof and the exhibits shall be resolved in favor of the Contract terms.
- B. This project shall be conducted in accordance with the terms and conditions of California Energy Commission (Commission) Request for Qualifications number 500-00-508, Engineering Technical Assistance for the International Energy Technology Export Program, and contractor's proposal dated _____ and this Contract. The Contractor's proposal is not attached, but is expressly incorporated by reference into this Contract. In the event of conflict or inconsistency between the terms of this Contract and the Contractor's proposal, this Contract shall be considered controlling

4. EXHIBITS

The following exhibits are attached and hereby expressly incorporated in this Contract.

- Exhibit A: Work Statement
- Exhibit B: Deliverables and Due Dates
- Exhibit C: Budget

5. INDEMNIFICATION

Contractor agrees to indemnify, defend and save harmless the Commission, its officers, agents and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

6. TIME IS OF THE ESSENCE

Time is of the essence in this Contract.

7. CONTRACT MANAGEMENT

- A. Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State of California.

- B. _____ is designated the Project Director on behalf of Contractor. Contractor may change Project Director but the Commission reserves the right to approve any substitution of the Project Director. Contractor's key personnel may not be substituted without the Commission Contract Manager's prior written approval.
- C. _____ is designated Commission Contract Manager. The Commission may change the Contract Manager by notice given Contractor at any time signed by the Contract Officer of the California Energy Commission.
- D. Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Commission Contract Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.
- E. Contractor will not be permitted to utilize Commission personnel for the performance of services which are the responsibility of Contractor unless such utilization is previously agreed to in writing by the Commission Contract Manager, and any appropriate adjustment in price is made. No charge will be made to Contractor for the services of Commission employees while performing coordinating or monitoring functions.

8. ASSIGNMENT

Contractor may not transfer by assignment, subcontract, or novation the performance of this Contract or any part thereof except with the prior written approval of the Commission as to each such assignment. The Commission's consent to one or more assignment(s) or subcontract(s) hereunder shall not constitute a waiver or diminution of Commission's absolute right to consent to each and every subsequent assignment or subcontract.

Contractor may not, without prior written consent of the Commission, assign any other right that he may from time to time have under this Contract.

9. AMENDMENT

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties, and no oral understanding or agreement not incorporated, shall be binding on any of the parties.

10. PAYMENT

- A. The consideration to be paid Contractor, as provided in this Contract, shall be in compensation for all of Contractor's expenses incurred in performance, including travel and per diem, unless otherwise expressly so provided. No reimbursement for

food or beverages shall be made other than allowable per diem charges. Travel and per diem shall be paid in accordance with paragraph ____.

- B. Subject to each of the conditions listed below, the Commission agrees to pay Contractor for expenses incurred in the project in accordance with Exhibit C, "Budget." Total amount of this Contract shall not exceed \$_____.

Conditions:

- 1) Payment shall be based on Contractor's invoices, itemized in accordance with Exhibit C, "Budget."
- 2) No payment shall be made in advance of services rendered.
- 3) Payments shall not be made more frequently than monthly in arrears.
- 4) A request for payment must include an invoice with cost backup and travel receipts (where appropriate) attached, evidence of progress, deliverables as required by the Contract, and written monthly progress reports prepared by the Contractor.
- 5) Each request for payment is subject to the Commission Contract Manager's approval, division management review, Commission Contracts Officer's approval, and audit by the Accounting Office.
- 6) Payments shall be made to Contractor only for undisputed invoices. An undisputed invoice is an invoice executed by the Contractor for services rendered to the Commission and for which additional evidence is not required to determine its validity. The Commission Contract Manager shall give written notice to the Contractor within 15 working days of receipt of a disputed invoice by using State of California Standard Form 209.
- 7) Each invoice shall list separately and cumulatively Contractor's use of DVBEs and include a copy of each DVBE invoice to Contractor.
- 8) Invoices shall identify charges for Contract tasks, personnel, labor rates and hours, expenses and backup for expenses, equipment purchases and subcontractor invoices authorized by either this Contract or subsequent Work Authorizations.
- 9) The Contractor shall submit invoices, in duplicate, stating the Contract number, to:

California Energy Commission
Accounting Office, MS-2,
1516 9th Street, First Floor
Sacramento, California 95814

- 10) The Commission shall retain from each invoice an amount equal to 10% of that invoice. The retained amount shall be held by the Commission and released to Contractor only upon the Commission's approval that the entire Contract work has been satisfactorily completed and the Final Report has been received and accepted.
- 11) The Commission shall make payment to the Contractor as promptly as fiscal procedures permit for performance under this Contract in accordance with applicable deliverable criteria as accepted by the Commission and in accordance with invoices submitted.
- 12) Payment is due to Contractor 45 days from the date a correct invoice is received in the office specified by the Commission.
- 13) Final invoice must be received by the Commission no later than 45 calendar days after the Contract termination date.

C. Taxes

The Commission will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Commission pursuant to this Contract. The State of California is exempt from Federal excise taxes.

11. TRAVEL AND PER DIEM

Contractor shall be reimbursed for travel and per diem on the same basis as nonrepresented State employees. The rates listed below will be in effect for the term of this contract, unless and until the State's per diem reimbursement rates for nonrepresented employees are revised. Travel expenses not listed in this section cannot be reimbursed.

Travel that has not been budgeted in Exhibit C, Budget, shall require prior written authorization from the Commission Contract Manager. Travel shall be paid from the Contractor's office location where the employees assigned responsibilities for this contract are permanently assigned.

Contractor must document and prepare travel expense claims as follows:

- Contractor's invoice must detail expenses using the rates listed below.

- Expenses must be listed by trip including dates and times of departure and return, in order to establish appropriate per diem rates (employee's travel claim may be attached instead)
- Attach required receipts for travel expenses claimed (receipts are not required for meals or incidentals within allowable rates, but you must retain all meal receipts for audit by the State or IRS).

A. **Transportation rates**

- 1) Common carrier, airline coach class or equivalent are reimbursable in accordance with receipts or vouchers attached to contractor's invoice verifying expenditure.
- 2) Private or contractor-owned automobile mileage is reimbursable up to 31 cents per mile. However, if travel by common carrier is more economical than by automobile, the rate for the common carrier will be reimbursed.
- 3) Rental car receipts must be attached to Contractor's travel expense claim. However, if taxi service is less expensive than a rental car the rate for taxi will be reimbursed. **NOTE: Insurance coverage is not reimbursable.**
- 4) Parking fees, taxi fees, tolls and public transit fees may be reimbursed up to \$10.00 without receipt.

B. **In-State Travel Per diem rates**

- 1) Apply to travel **more than 50 miles** away from Contractor's headquarters,
- 2) Per diem is reimbursable as follows:
 - a) **Less than 24 hour trip**, Contractor shall be reimbursed for meals and lodging according to the following rates:

Breakfast:	Up to \$ 6.00, if began at or prior to 6 a.m. and terminated at or after 9 a.m.
Lunch:	Not reimbursed on trip of less than 24 hours
Dinner:	Up to \$18.00, if began at or prior to 4 p.m. and terminated at or after 7 p.m.
Incidentals:	Not reimbursed on trip of less than 24 hours
 - b) **More than 24 hours**, Contractor will be reimbursed for each 24 hour period for meals, lodging and incidentals according to the following rates:

Breakfast:	Up to \$ 6.00 if trip began at or before 6 am.
Lunch:	Up to \$ 10.00 if trip began at or before 11 am.
Dinner:	Up to \$18.00 if trip began at or before 5 pm.
Incidentals:	Up to \$6.00
 - c) Time Frame for fractional day after 24 hours of travel:

Breakfast: If trip ends at or after 8 a.m.
Lunch: If trip ends at or after 2 p.m.
Dinner: If trip ends at or after 7 p.m.

3) Lodging (Receipt Required)

Up to \$84.00 plus tax, except when lodging is in San Francisco, Alameda, San Mateo and Santa Clara counties, and Central/Western Los Angeles*, up to \$110.00 plus tax.

*Los Angeles area within borders of Sunset Boulevard(North), Pacific Ocean (West), Imperial Boulevard/Freeway 105 (South), and Freeways 110, 10 and 101 (East).

C. **Out-of-State Travel Per diem rates**

Meals/Incidentals: Same as in-state rates
Lodging: Actual expense with receipt (subject to Commission Contract Manager approval)

D. **Out-of-Country Travel Per diem rates**

Meals/Incidentals: Actual expense in accordance with foreign travel rates published by US Government.
Lodging: Actual expense with receipt (subject to Commission Contract Manager approval).

12. STANDARD OF PERFORMANCE

A. Standard of Performance

Contractor, its subcontractors and their employees shall be responsible in the performance of Contractor's work under this Contract for exercising the degree of skill and care required by customarily accepted good professional practices and procedures. Any costs for failure to meet these standards, or otherwise defective services, which require reperformance, as directed by Commission staff or its designee, shall be borne in total by the Contractor and not the Commission.

- 1) In the event the Contractor/subcontractor fails to perform in accordance with the above standard:

- a) Contractor/subcontractor will reperform, at its own expense, any task which was not performed to the reasonable satisfaction of the Commission Contract Manager. Any work reperformed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. Contractor/subcontractors shall work any overtime required to meet the deadline for the task at no additional cost to the Commission.
 - b) The Commission shall provide a new schedule for the reperformance of any task pursuant to this paragraph in the event that reperformance of a task within the original time limitations is not feasible.
 - c) The Commission shall have the option to direct Contractor/subcontractor not to reperform any task which was not performed to the reasonable satisfaction of the Commission Contract Manager pursuant to application of (a) and (b) above. In the event that the Commission directs the Contractor/subcontractor not to reperform a task, the Commission Contract Manager and Contractor shall negotiate a reasonable settlement for satisfactory services rendered. No previous payment shall be considered a waiver of the Commission's right to reimbursement.
- 2) Nothing contained in this section is intended to limit any of the rights or remedies which the Commission may have under law.

13. SUBCONTRACTS

B. Agreements with Subcontractors

It is understood and agreed that _____ and each subcontractor shall comprise the "contractor team." _____ shall function as the Prime Contractor (hereafter referred to as "Contractor") of this project and shall manage the performance of the subcontractors.

- 1) Contractor shall enter into subcontracts with the following firms and individuals:

- 2) Contractor shall be responsible for establishing and maintaining contractual agreements with, and the reimbursement of each of, the subcontractors for work performed in accordance with the terms of this Contract. Replacement

or substitution of any of the subcontractors shall not be permitted without the prior written approval of the Contract Manager, and shall be subject to the provisions of this paragraphs ____ and ____.

- 3) Contractor shall be responsible for scheduling and assigning subcontractors to specific tasks in the manner described in this Contract, coordinating subcontractor accessibility to Commission staff, and submitting completed products to the Commission Contract Manager.
- 4) All subcontracts entered into pursuant to this Contract shall be subject to examination and audit by the Auditor General for a period of three years after final payment under this Contract.
- 5) Each subcontract to which the Commission has consented shall contain a provision that further assignments shall not be made to any third or subsequent tier subcontractor without additional written consent of the Commission.

C. Additions, Removal or Substitutions of Subcontractors

The Commission reserves the right to replace a subcontractor or request additional subcontractors, and approve additional subcontractors and changes of subcontractors. Such changes shall be subject to the following conditions:

- 1) If the Commission requires the replacement or addition of subcontractor(s), the subcontractor(s) shall be selected through the competitive bid process and Contractor shall obtain a minimum of three bids. Awards shall be made to the lowest bidders meeting the requirements of the RFP. The competitive bid process shall be conducted in conformance with the State's and the Commission's procedures for RFP's and shall be subject to the approval of the Commission Contract Manager and Commission Contracts Officer prior to release.
- 2) If, at the direction of the Commission, it becomes necessary to obtain additional subcontractors to either expedite the work or obtain expertise not available from the Contractor, Commission may direct Contractor to subcontract with a specific firm or to utilize the competitive bid process. However, if the competitive process is not used, justification shall be provided by the Contractor or the Commission Contract Manager to the Contracts Office.
- 3) Contractor shall submit any proposed subcontracts not originally identified in Contractor's proposal, or any substitution of subcontracts to the

Commission for its approval prior to Contractor entering into same. Upon the termination of any subcontract, the Commission Contract Manager shall be notified immediately.

- 4) Subcontracts under \$10,000 are subject to Commission Contract Manager, DVBE Coordinator, Contract Officer, and Executive Director approval. Subcontracts of \$10,000 or more are subject to Commission Contract Manager, DVBE Coordinator, Contract Officer, appropriate Policy Committee, and Executive Director approval.

D. Disabled Veteran Business Changes

During the term of this Contract, the Contractor must use the DVBE companies identified in its proposal. If the DVBE companies listed in the Contract need to be replaced, the Contractor must request approval from the Commission Contract Manager to replace the subcontractor/vendor. The procedure for replacing any subcontractor/vendor is defined in paragraph C above. The Contractor's request must be in writing and is subject to the approval of the Commission Contract Manager, Division Management, DVBE Coordinator, and the Executive Director. At a minimum, the request must include:

- 1) A letter from the Contractor explaining the reason for the replacement; and
- 2) The identity of the subcontractor/vendor replaced, including a revised Attachment 2 and certifications for each new subcontractor/vendor (Attachment 3 or 4); or
- 3) If the replacement is not a DVBE, a new Attachment 5 documenting its efforts (good faith) to replace the DVBE with another DVBE.

The Contractor's request and the Commission's approval or disapproval shall not be an excuse for noncompliance with any other provision of law including, but not limited to, the subletting and subcontracting fair practices act or any other contract requirements related to substitution of subcontractors.

Contractor's failure to adhere to the DVBE participation in its proposal may be cause for Contract termination and recovery of damages under the rights and remedies due the Commission under the termination paragraph of the Contract.

14. PERFORMANCE EVALUATION

Consistent with Public Contract Code Sections 10367 and 10369, the Commission shall, upon completion of this Contract, prepare a performance evaluation of the Contractor.

- A. Upon filing an unsatisfactory evaluation with the Department of General Services, the Commission shall notify and send a copy of the evaluation to the contractor within 15 days. The Contractor shall have 30 days to prepare and send statements to the Commission and the Department of General Services defending his or her performance under this Contract. The Contractor's statement shall be filed with the evaluation in the Commission's Contract file and in the Department of General Services, Office of Legal Services.
- B. The evaluations and contractor responses on file with the Commission and the Department of General Services shall not be public records and shall remain on file for a period of 36 months only.

15. SEVERABILITY

If any provision of this Contract or its application is held invalid, that invalidity shall not affect other provisions of this Contract which can be given effect without the invalid provision, and to this end the provisions of the Contract are severable.

16. REPORTS

A. Fiscal Record Keeping

Contractor shall furnish detailed itemization of, and retain all records relating to, direct expenses reimbursed to Contractor, and to hours of employment on this Contract by any employee of Contractor for which the Commission is billed. Such records shall be maintained for a period of three years after final payment of this Contract, or until audited by the State, whichever occurs first, and shall be available for inspection or audit at any reasonable time by the Bureau of State Audits. Invoices for services rendered are to be delivered to the Accounting Office, MS-2, State Energy Resources Conservation and Development Commission, 1516 9th Street, 1st Floor, Sacramento, California 95814.

B. Report Standards

All reports (progress and final) shall be delivered to:

Commission Contract Manager, MS-45
California Energy Commission
1516 - 9th Street, 1st Floor
Sacramento, CA 95814

C. Progress Report

The Contractor shall prepare a monthly progress report which summarizes all contract activities conducted by the Contractor including contract expenditures to date. The monthly progress report is due to the Commission Contract Manager within 15 days after the end of the month. The Commission Contract Manager will specify the report format and the number of copies to be submitted. All monthly progress reports shall coincide with the invoice period.

D. Final Reports

At the conclusion of the Contract, and as provided for in Exhibit A, Work Statement, and in Exhibit B, Deliverables and Due Dates, Contractor shall prepare a comprehensive Final Report, a brief summary of same, and a brief (200 words or less) factual abstract of the Final Report.

- 1) **Meeting** - Contractor shall meet with the Commission to present the findings, conclusions, and recommendations. Both the final meeting and the Final Report must be consummated on or before the date indicated in the term of the contract.
- 2) **Abstracts** - Contractor shall provide a brief (200 words or less) factual abstract of the most significant information contained in the report.
- 3) **Summary** - The summary shall include a statement of the problem, methods or techniques used to solve the problem, conclusions and any additional follow-up or ongoing recommendations. The summary shall be prepared in language and structure easily understood by members of the public who may have limited technical background. Contractor shall provide the Commission with ten copies and a reproducible master.

E. Format

Final reports and summaries shall be prepared in the following manner:

- 1) Camera-ready originals, in black ink, which include originals of oversize material, and ten copies.
- 2) Illustrations and graphs sized to 8 1/2 x 11 page.
- 3) Contractor's name shall only appear on the cover and title page as follows:

California Energy Commission
Project Title

Contract Number
By (Contractor)

- F. The Commission owns all material objects produced under this Contract.
- G. Each report shall become the property of the Commission. Contractor will not disclose data or disseminate the contents of the final or any preliminary report without express written permission of the Commission Contract Manager.

17. REPORT CONTENTS

- A. Permission to disclose information on one occasion or public hearings held by the Commission relating to the same shall not authorize Contractor to further disclose and disseminate the information on any other occasion.
- B. Contractor will not comment publicly to the press or any other media regarding its report, or Commission's actions on the same, except to Commission staff, Contractor's own personnel involved in the performance of this Contract, or at public hearing, or in response to questions from a legislative committee.
- C. If requested by Commission, Contractor shall require each of its employees or officers who will be involved in the performance of this Contract to agree to the above terms in a form to be approved by the Commission, and shall supply the Commission with evidence of these agreements.
- D. Each subcontract shall contain provisions similar to the foregoing related to the confidentiality and nondisclosure of data.
- E. Ninety days after any document submitted has become a part of the public records of the State, Contractor may, if it wishes to do so at its own expense, publish or utilize the document, but shall include the following legend:

LEGAL NOTICE

"This report was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Energy Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the use of this information will not infringe upon privately owned rights."

- F. Notwithstanding the foregoing, in the event any public statement is made by the Commission or any other party, based on information received from the Commission as to the role of Contractor or the content of any preliminary or final report, Contractor may, if it believes the statement to be incorrect, state publicly what it believes is correct.
- G. No record which has been designated as confidential, or is the subject of a pending application of confidentiality, shall be disclosed by the Contractor, Contractor's employees or any tier of subcontractors, except as provided in 20 California Code of Regulations, Sections 2506 and 2507, unless disclosure is ordered by a court of competent jurisdiction (20 California Code of Regulations, Sections 2501, et seq.). At the election of the Commission Contract Manager, Contractor, Contractor's employees and any subcontractor shall execute a "Confidentiality Agreement," supplied by the Commission Contract Manager.

18. CONTRACT DATA, OWNERSHIP RIGHTS

- A. "Data" as used in this Contract means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research or experimental, developmental or engineering work, or be usable or be used to define a design or process, or to support a premise or conclusion asserted in any deliverable document called for by this Contract. The data may be graphic or pictorial delineations in media, such as drawings or photographs, data or information, etc. It may be in machine form, such as punched cards, magnetic tape or computer printouts, or may be retained in computer memory.
- B. "Deliverable data" is that data which, under the terms of this Contract, is required to be delivered to the Commission and shall belong to the Commission.
- C. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Contract, and which Contractor has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this Contract is commenced. The title to "proprietary data" shall remain with the Contractor throughout the term of this Contract and thereafter. The extent of the Commission access to, and the testimony available regarding, the proprietary data shall be limited to that reasonably necessary to demonstrate, in a scientific manner to the satisfaction of scientific persons, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable for this Contract.
- D. "Generated data" is that data which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Contract. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Contract at the Commission's expense, together with complete documentation thereof, shall be treated in the same manner as "generated data." "Generated data" shall be the property of the Commission, unless and only to the extent that it is specifically provided otherwise in this Contract.
- E. As to "generated data" which is reserved to Contractor by the express terms hereof, and as to any pre-existing or "proprietary data" which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced as evidence in a court of law at Contractor's own expense for a period of not less than three years after receipt by the Commission of the Final Report herein.

F. Before the expiration of the three years, and before changing the form of or destroying any data, Contractor shall notify the Commission of any contemplated action and the Commission may, within thirty (30) days after notification, determine whether it desires the data to be preserved. If the Commission so elects, the expense of further preserving data shall be paid for by the Commission. Contractor agrees that the Commission may at its own expense, have reasonable access to data throughout the time during which data is preserved. Contractor agrees to use its best efforts to furnish competent witnesses or to identify competent witnesses to testify in any court of law regarding data.

19. RIGHTS OF PARTIES IN COPYRIGHTS, PHYSICAL WORKS OF ART AND FINE ART

The Contractor, by signing this Contract, expressly grants to the Commission for all copyrightable material, work of art and original work of authorship first produced, composed or authored in the performance of this Contract a royalty-free, paid-up, non-exclusive, irrevocable, nontransferable, worldwide license to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art, and to authorize others to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art.

Contractor, by signing this Contract, expressly conveys to the Commission all ownership of the physical works of art and fine art produced under this Contract. Contractor agrees it does not reserve any rights to the physical works of art and fine art produced under this Contract.

Contractor shall obtain these same rights for the Commission from all subcontractors and others who produce copyrightable material, works of art, or works of fine art under this Contract. Contractor shall incorporate these paragraphs, modified appropriately, into its agreements with subcontractors. No subcontract shall be entered into without these rights being assured to the Commission from the subcontractor.

20. PUBLIC HEARINGS

If public hearings on the subject matter dealt with in this Contract are held during the period of the Contract, Contractor will make available to testify the personnel assigned to this Contract. The Commission will reimburse Contractor for compensation and travel of the personnel at the Contract rates for the testimony which the Commission requests.

21. DISPUTES

In the event of a Contract dispute or grievance between Contractor and the Commission, the following two-step procedure shall be followed by both parties. Contractor shall continue with the responsibilities under this contract during any dispute.

A. Commission Dispute Resolution

The Contractor shall first discuss the problem informally with the Commission Contract Manager. If the problem cannot be resolved at this stage, the Contractor must direct the grievance together with any evidence, in writing, to the Commission Contracts Officer. The grievance must state the issues in the dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Commission Contracts Officer and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Contracts Officer shall respond in writing to the Contractor, indicating a decision supported by reasons. Should the Contractor disagree with the Contracts Officer decision, the Contractor may appeal to the second level.

The Contractor must prepare a letter indicating why the Contracts Officer's decision is unacceptable, attaching to it the Contractor's original statement of the dispute with supporting documents, along with a copy of the Contracts Officer's response. This letter shall be sent to the Executive Director at the Commission within ten (10) working days from receipt of the Contracts Officer's decision. The Executive Director or designee shall meet with the Contractor to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter. The Executive Director may exercise the option of presenting the decision to the Commission at a business meeting. Should the Contractor disagree with the Executive Director's decision, the Contractor may appeal to the Commission at a regularly scheduled business meeting. Contractor will be provided with the current procedures for placing the appeal on a Commission Business Meeting Agenda.

B. Binding Arbitration

Should the Commission's Dispute Resolution procedure identified in paragraph A. above fail to resolve a contract dispute or grievance to the satisfaction of the Contractor, the Contractor may elect to have the dispute or grievance resolved through binding arbitration. The Commission may also elect to have any contract dispute or grievance resolved through binding arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. The decision rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof. The demand for arbitration shall be made no later

than six(6) months after the date of the contract s termination, irrespective of when the dispute or grievance arose, and irrespective of the applicable statute of limitations for a suit based on the dispute or grievance.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA s administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be borne by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

22. TERMINATION

A. Failure to Perform

The Commission may terminate this Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants at the time and in the manner provided in this Contract. In the event of a termination the Commission may proceed with the work in any manner deemed proper by the Commission. The cost to the Commission shall be deducted from any sum due the Contractor under this Contract, and the balance, if any, shall be paid the Contractor upon demand.

B. Bankruptcy

In the event proceedings in bankruptcy are commenced against the Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies, then the Commission may terminate this Contract and all further rights and obligations, by giving five (5) days notice in writing. It is recognized by the parties that equipment purchased by Contractor or the Commission for this project shall have lien rights held in the name of the Commission which shall retain lien rights until the Contractor

either returns the equipment to the Commission or purchases it as is provided by the terms of this Contract.

C. 30-Day Cancellation Clause

The Commission may, at its option, terminate this Contract at any time upon giving thirty (30) days advance notice in writing to Contractor. In this event, Contractor agrees to use all reasonable efforts to mitigate its' expenses and obligations. In such event, the Commission shall pay Contractor for all satisfactory services rendered and expenses incurred before the notice of termination which could not by reasonable efforts of Contractor have been avoided, but not in excess of Contract maximum payable. In such event, Contractor agrees to relinquish possession of equipment purchased for this project to the Commission, or Contractor may, with approval of the Commission, purchase the equipment as provided by the terms of this Contract.

The Commission in lieu of terminating this Contract, shall have the right to require the Contractor to assign its rights and obligations under this Contract to the party or parties chosen by the Commission at its sole discretion.

The Commission may exercise this right pursuant to the above paragraph after a determination by the Executive Director of the Commission that the assignment is in the best interest of the Commission. The Contractor agrees to execute said agreement immediately upon 15 days written notice to the Contractor from the Commission.

D. Event of Breach

In the event of any breach of this Contract, the Commission may, without prejudice to any of its other legal remedies, terminate this Contract upon five (5) days written notice to the Contractor. In the event, the Commission shall pay Contractor only the reasonable value of the services rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of Contract maximum payable.

E. Gratuities

The Commission may, by written notice to the Contractor, terminate the right of Contractor to proceed under this Contract if it is found, after notice and hearing by the Commission or by Executive Director of the Commission or his duly authorized representative, that gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Commission, with a view toward securing a contract or securing favorable treatment with respect

to awarding or amending or making a determination with respect to performance of this Contract.

In the event this Contract is terminated as provided in this section, the Commission shall be entitled to (1) pursue the same remedies against Contractor as it could pursue in the event of the breach of the Contract by the Contractor, and (2) exemplary damages in an amount which shall be not less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee, as a penalty, in addition to any other damages to which it may be entitled by law.

The rights and remedies of the Commission provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

23. NOTICE

Notice to either party may be given by certified mail properly addressed, postage fully prepaid, to the address listed below for each respective party. Notice shall be effective when received, as indicated by post office records, or if deemed undeliverable by post office, such notice shall be effective nevertheless fifteen (15) days after mailing.

Energy Commission
Contracts Office
1516 9th Street
Sacramento, California 95814

Contractor
(see Page 1 (cover) of Std 2
1st Floor for Contractor s address)

Alternatively, notice may be given by personal delivery to the party at the address designated. Notice shall be deemed effective when delivered unless a legal holiday for State offices commences during the 24-hour period, in which case the effective time of the notice shall be postponed 24 hours for each such intervening day.

24. WAIVER

No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Commission to enforce at any time any of the provisions of this Contract, or to require at any time performance by Contractor of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Contract or any part of it or the right of the Commission to thereafter enforce each and every such provision.

25. CONFLICT OF INTEREST

- A. Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall report its findings each month in its monthly progress report.
- B. Contractor and each subcontractor shall agree not to bid as a project developer or independent consultant on any RFP or project in which Contractor or any subcontractor has provided assistance under this Contract.
- C. Contractor and each team member shall be disqualified from participating in the review, evaluation, or assistance of any project seeking assistance for which Contractor has become a project developer or independent consultant in a situation not covered by Section A., or B., above; or,

- 1) Any project for which, within twelve (12) months prior to the start date of this Contract or at any time during this Contract, it has provided assistance under a separate contract to the project proponent that is seeking assistance for the same project under any of the above programs.

Contractor shall require each of its subcontractors at any level who will be involved in the performance of this Contract to agree to the above terms in a form to be approved by the Commission Contract Manager, and shall furnish the Commission with evidence thereof. The terms of this paragraph shall remain in effect for the duration of this Contract.

- D. The Commission Contract Manager and Commission General Counsel's Office shall determine what constitutes a potential conflict of interest. The Commission reserves the right to redirect work and funding on a project if the Commission determines that there is a potential conflict of interest.

§ 10365.5 Prohibited bids concerning end product of contract; exemptions

- a) No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.
- b) Subdivision a.) does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

Follow- on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant that contracts with a state agency to develop a feasibility study or provide formal recommendations for the acquisition of EDP products or services is precluded from contracting for any work recommended in the feasibility study or the formal recommendation.

26. WORKERS' COMPENSATION INSURANCE

Contractor hereby warrants that it carries Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Contract, and agrees to furnish to the Commission satisfactory evidence of this insurance at any time the Commission may request.

27. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor, by signing this Contract, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a Federal Court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a Federal Court which orders the Contractor to comply with an order of the National Labor Relations Board (Public Contract Code Section 10296).

28. STATEMENT OF ECONOMIC INTERESTS

Contractor shall submit to the State a completed Fair Political Practices Commission Form 730, "Statement of Economic Interests" for each consultant directed by the Commission to file a statement.

29. STATEMENT OF COMPLIANCE

The Contractor's signature to this Contract, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor has, unless specifically exempted, complied with Government Code Section 12990 and California Code of Regulations, Title 2, Div 4, CH 5 in matters relating to the development, implementation and maintenance of a nondiscrimination program. The Contractor agrees not to unlawfully discriminate against any employee or applicants for employment because of race, religion,

color, national origin, ancestry, physical handicap, medical condition, marital status, sex or age (over forty).

30. NONDISCRIMINATION CLAUSE

- A. During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part of it as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

If this (Award) Contract is funded in part through federal financial assistance, Contractor and its subcontractors shall comply with Title VI of the Civil Rights Act of 1964 (42 United States Code Section 2000d, et seq.) and Title IX of the Education Amendments of 1972 (20 United States Code Section 1681, et seq.) and shall not unlawfully discriminate against any beneficiary under this Contract because of race, color, national origin, or sex. For purposes of complying with this provision the term beneficiary refers to any person or entity in the United States that is intended to benefit directly or indirectly from the performance of this Contract. Contractor and its subcontractors shall inform beneficiaries of their rights under Title VI and Title IX by posting a copy of the Department of Energy's Nondiscrimination Poster, or its equivalent, in their places of business and by referring questions concerning a beneficiary's rights to the Commission's Equal Employment Opportunity Officer.

- B. The Contractor shall include the nondiscrimination and compliance provisions of this article in all subcontracts to perform work under this Contract.

31. DRUG-FREE WORKPLACE CERTIFICATION

By signing this Contract, the Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the

Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- B. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) Any available counseling, rehabilitation and employee assistance programs; and
 - 4) Penalties that may be imposed upon employees for drug abuse violations.
- C. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed Contract:
 - 1) Will receive a copy of the company's drug-free policy statement; and
 - 2) Will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

32. AMERICANS WITH DISABILITIES ACT

By signing this Contract, Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

33. LAW GOVERNING

It is hereby understood and agreed that this Contract shall be governed by the laws of the State of California as to interpretation and performance.

34. CONTRACT IS COMPLETE

Other than as specified herein, no document or communication passing between the parties to this Contract shall be deemed as part of this Contract.

35. CAPTIONS

The clause headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They do not purport, and shall not be deemed, to define, limit, or extend the scope or intent of the clauses to which they appertain.

36. CONTRACTOR DUTIES, OBLIGATIONS AND RIGHTS

The Contractor under the performance of this Contract has been fully informed of its' duties, obligations, rights under Public Contract Code, Sections 10355 through 10382, and any additional Contractor's rights and obligations which should be included. A copy of the applicable sections of the Public Contract Code shall be provided to the Contractor upon request.

37. PRIOR DEALINGS, CUSTOM OR TRADE USAGE

In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of the terms or provisions contained herein.

38. AUDIT

Contractor agrees that the awarding agency or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor agrees to provide the awarding department or its delegatee with any relevant information requested and shall permit the awarding agency or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with PCC / 10115 et seq., GC/ 8546.7 and 2 CCR/ et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the contract.

Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC/ 10115.10.

39. RECYCLING CERTIFICATION

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Contract, regardless of whether the product

meets the required recycled product percentage as defined in the Public Contract Code, Section 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354.)

40. ANTITRUST CLAIMS

A. The Government Code Chapter on Antitrust claims contains the following definitions:

1) Public purchase means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code).

2) Public Purchasing Body means the State or the subdivision or agency making a public purchase. Government Code Section 4550 (b).

B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. Government Code Section 4554.

41. UNENFORCEABLE PROVISION

In the event that any provision of this Contract is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Contract have force and effect and shall not be effected thereby.

42. CHILD SUPPORT COMPLIANCE ACT

- A. The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

43. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

44. UNIONIZATION ACTIVITIES

By signing this agreement, contractor hereby certifies that contractor will not use contract funds to assist, promote, or deter union organizing. Any contractor that makes expenditures to assist, promote or deter union organizing shall maintain records sufficient to show that state funds have not been used for those expenditures.